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EXAMINER

NGUYEN BA, HOANG VU A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/043,714	Applicant(s) BENTOLILA ET AL.	
	Examiner Hoang-Vu A. Nguyen-Ba	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to amendment filed December 20, 2007.
2. Claims 1-21 remain pending. Claims 1, 8 and 12 are independent claims.

Response to Arguments

3. Applicants' arguments have been fully considered but they are not persuasive.
The following is an examiner's response to Applicants' arguments.

Claims 1-3 and 5-7

Applicants' arguments:

The claimed invention is directed to a television rating system for targeted program delivery. Independent claim 1 requires, in part, "a contextual behavioral profiling agent included in the client-side system" for "deriving profiling information related to a television user's viewing behavior with content and usage-related preferences." Advantageously, embodiments of the claimed invention provide an intelligent and flexible method for targeted program delivery. The instant Office Action agrees that Hendricks does not show or suggest the above-mentioned limitations, but asserts that Herz (col. 41, lines 55-60) supplies a customer profile system that calculates the agreement matrix at the customer's set top terminal from the customer profiles stored in the set top multimedia terminal and the content profiles of the received video programming. Applicant respectfully disagrees. The instant Office Action seemingly equates the customer profile system of Herz to the claimed "behavioral profiling agent." Herz does not show or suggest its customer profile system to be "included in the client-side system" and for "deriving" profiling information as the claimed "behavioral profiling agent"

The cited portion of Herz (col. 41, lines 55-60), relied upon by the Examiner, reads:

In a one-way data transmission system in accordance with the invention, a customer profile system in accordance with the invention calculates the agreement matrix at the customer's set top multimedia terminal from the customer profiles stored in the set top multimedia terminal and the content profiles of the received video programming. This technique allows the set top multimedia terminal to create "virtual channels" of the video programming received which the set top multimedia terminal deems most desirable on the basis of the customer's profile(s). (Emphasis added).

It appears that the Examiner interprets the above passage as teaching that a customer profile system resides in the customer's set top multimedia terminal. Applicant respectfully disagrees. In the above passage Hertz only mentions that a customer profile system calculates an agreement matrix using customer profiles and received programming profiles, wherein the customer profiles and programming profiles (not program content) reside at the customer's set top multimedia terminal.

However, the first sentence from the above passage, relied upon by the instant Office Action to make the rejection, does not teach or suggest that the customer profile system resides at the set

top terminal. The grammatical structure of said sentence determines that the set top multimedia terminal limits only the customer profiles and the agreement matrix to be at the set top multimedia terminal, but not the customer profile system to be also in the set top multimedia terminal. The location of the customer profile system as taught by Herz has to be inferred from elsewhere of the disclosure.

Indeed, Herz teaches away from the claimed limitations by disclosing that the customer profile system resides at the server side.

For example, col. 4, lines 50-65 of Herz reads

The initial customer profiles are determined from customer questionnaires, customer demographics, relevance feedback techniques, default profiles, and the like, while the initial content profiles are determined from questionnaires completed by "experts" or some sort of customer's panel, are generated from the text of the video programs themselves, and/or are determined by adopting the average of the profiles of those customers who actually watch the video program. Based on the comparison results, one or more customized programming channels are created for transmission, and from those channels, each customer's set top multimedia terminal may further determine "virtual channels" containing a collection of only those video programs having content profiles which best match the customer's profile and hence are most desirable to the customer during the relevant time frame.

From the above passage (col. 4, lines 50-65), it is clear that the customer profile system in Hertz resides at the server side (central location) and not at the client side (user set top terminal). Further, the collection and analysis of the questionnaires, demographics, etc., show that the customer profile system in Herz operates at a server side (central location) for calculating an agreement matrix using customer profiles and received programming profiles, wherein only the customer profiles and programming profiles reside at the customer's set top multimedia terminal. Further, col. 10, lines 15-21 of Herz reads:

In accordance with the preferred embodiment of the invention, the content profiles describe the contents of video programs and are compared mathematically in a computer to customer profiles to generate an agreement matrix which establishes the degree of correlation between the preferences of the customer or customers and the video programming available during each video programming time slot.

From the above passage (col. 10, lines 15-21), it is clear that in Hertz a central system and computer are used to compare the contents of video programs with the customer profiles. The contents of video programs are only available in the central system, not in the individual user set top terminal (client side). As a further example, col. 42, lines 54-63 of Herz reads:

In the two-way implementation, the customer profile system is implemented at the video head end by creating an agreement matrix for all customers from customer profiles stored at the head end and content profiles of the video programming to be transmitted. This technique allows the video head end operator to objectively determine which video programming is most likely to be desired by his or her customers and also allows one to minimize the memory requirements at the set top multimedia terminal. (Emphasis added).

The above passage (col. 42, lines 54-63) further corroborates that the customer profile system of Herz is located in the head end (central location or server side), and not the user set top terminal (client side).

In view of the above, Hendricks and Herz, whether considered separately or in combination, fail to show or suggest the claimed invention as recited in independent claim 1 of the present application. Thus, independent claim 1 of the present application is patentable over Hendricks and Herz. Dependent claims 2, 3 and 5-7 are allowable for at least the same reasons. Accordingly, withdrawal of the rejection is respectfully requested.

Examiner's response:

Regarding Applicants' arguments that Herz teaches away from the claimed limitations by disclosing that the customer profile system resides at the server side, the examiner respectfully disagrees with Applicants' assertion for the following reason:

Applicants' arguments rely on Herz's 42:54-63 to assert that Herz's customer profile system is located at the server side. This portion of Herz is not what the Office action relied on to show that the location of the customer profile system of Herz is on the client side, which what Applicants' claim requires. Instead, the portion of Herz cited by the Office action is 41:55-64. In this cited portion, the Herz reference describes the implementation of the one-way data transmission system embodiment which provides for a customer profile system that is located at the set top box terminal as opposed to the portion cited by Applicants which describes the implementation of a two-way data transmission which provides for a customer profile system that is located on the server side.

In view of the above discussion, independent claim 1 of the present application is not considered patentable over Hendricks and Herz. Claims 2, 3 and 5-7 are thus not considered allowable for at least the same reason.

Claims 2-21

Applicants' arguments:

Regarding claims 2-21, the instant Office Action merely asserts that "see discussion in previous Office actions." Applicant respectfully notes that all the rejections as set forth in previous Office actions were based on the assertions that Hendricks discloses a client-side profiling system, which assertions being finally traversed by the instant Office Action itself as discussed above. Herz was not relied upon at all in rejections of most of the claims. Thus, all the remaining

rejections are now moot. Accordingly, withdrawal of the rejections of claims 2-21 is respectfully requested.

Examiner's response:

The examiner respectfully notes that independent claims 8 and 12 have not been amended and Applicants' arguments with respect to these claims have been fully addressed in the previous Office actions.

It is further noted that Claim 12 does not explicitly claim *a context behavioral profiling agent* located on the client side and Claim 8 recites *a user monitoring connected at the client side to record contextual transitions behaviors profiling one or more users*. Even assuming that the user monitoring is the same as the context behavior profiling agent of Claim 1, Hendricks (29:26-28 and 29:33-43 as cited in OA dated July 6, 2006) appears to teach the claim requirement.

The OA dated September 20, 2007 does nowhere assert that Hendricks does not teach that claim requirement. It merely shows, in conjunction with the rejection of Claim 1 only, that Herz teaches the contextual behavioral profiling agent located on the client side in 41:55-64.

Thus, the combination teaches all the claim requirements of independent claims 1, 8 and 12.

Since Applicants do not present any detailed arguments with respect to the patentability of Claims 4, 9-11 and 13-21 in the present Remarks, the same rationale set forth in the OA dated July 6, 2006 and January 26, 2007 for the rejection of these claims is maintained.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hoang-Vu A. Nguyen-Ba whose telephone number is (571) 272-3701. The Examiner can normally be reached on Tuesday - Friday from 7:00 – 17:30.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist: 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hoang-Vu Antony Nguyen-Ba/
Primary Examiner, Art Unit 2623

March 16, 2008